

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

AUDREY K. MILLER,)
Plaintiff,)
v.) NO. H-15-CV-2824
SAM HOUSTON STATE UNIVERSITY)
TEXAS STATE UNIVERSITY SYSTEM,) January 25, 2016
Defendants.)

INITIAL CONFERENCE
BEFORE THE HONORABLE LYNN N. HUGHES

16 For the Plaintiff: Terrence B. Robinson
17 Mina Madani Banerjee
18 The Robinson Law Firm
1700 Post Oak Blvd., Suite 600
Houston, TX 77056

19 For the Defendants: Adam N. Bitter
20 Office of the Attorney General
21 State of Texas
P.O. Box 12548
Austin, TX 78711

22 Court Reporter: Bruce Slavin, RPR, CMR

Proceedings reported by mechanical stenography and produced by computer-aided transcription.

1 THE COURT: Mr. Robinson, we've got four parties
2 instead of the two.

3 MR. ROBINSON: Oh. The --

4 THE COURT: You sued the System and the
15:40 5 institution. So, pick any two you want. I don't care.

6 MR. ROBINSON: I am going to go with the
7 Universities.

8 THE COURT: Is that right?

9 MR. BITTER: Yes, Your Honor. To be clear, you
15:41 10 know, that was an issue that we were going to hope to
11 resolve by --

12 THE COURT: I just did.

13 MR. BITTER: Yes, Your Honor.

14 THE COURT: We'll dismiss the Systems.

15:41 15 MR. BITTER: Thank you, Your Honor.

16 THE COURT: Systems don't do anything. They hire
17 large staffs and go around and make life difficult for the
18 actual institutions themselves. It's in their charter;
19 annoy their workers.

15:41 20 Have you given the Attorney General all these
21 records she mentioned in her complaint and she had
22 statements from other professors and --

23 MR. ROBINSON: Yes, Your Honor.

24 THE COURT: Have you got all that?

15:41 25 MR. BITTER: We have received them.

1 THE COURT: Have you read them?

2 MR. BITTER: Well, we actually had some technical
3 difficulty receiving them. Mr. Robinson and I worked
4 through some of those issues. We were just able to resolve
5 those two days ago, actually. We just received them --

6 THE COURT: [To Ms. Banerjee] I am glad you're on
7 this case.

8 MS. BANERJEE: Thank you.

9 THE COURT: How long does it take to resolve the
0 issue? You call him and say, 'I couldn't read the PDFs you
1 sent me,' or something and he says, 'I will send them a
2 different way.'

13 MR. BITTER: Yes, Your Honor.

14 THE COURT: And, so, you didn't read them. That's
15 the long way of saying you didn't read them.

15:42 20 (Simultaneous dialogue)

21 THE COURT: -- internal processes where she
22 complains. All that stuff has been gathered, but you've got
23 to read it.

24 MR. BITTER: Yes, Your Honor. And I certainly -- I
15:42 25 don't know that it mentioned every single document, but I

1 have read the statements that she submitted in the course of
2 the --

3 THE COURT: It's not hers, but she said somewhere
4 that she had statements from other people.

15:42 5 MR. ROBINSON: There are recordings and there
6 are -- There are recordings mostly.

7 THE COURT: Have they been transcribed?

8 MR. ROBINSON: Some of them have been transcribed,
9 yes.

15:43 10 MR. BITTER: And I have listened to the --

11 MR. ROBINSON: There are 400 things that --
12 exhibits that we sent over.

13 THE COURT: Master them. I'm not making her
14 produce all that stuff and the great State of Texas is just
15:43 15 going to sit on them --

16 MR. BITTER: Yes, sir. I understand.

17 THE COURT: -- or use them for coasters.

18 Are you in Austin?

19 MR. BITTER: Yes, Your Honor.

15:43 20 THE COURT: I'm sorry. Maybe you can stop and
21 spend a night in Lockhart on the way down so they can
22 decompress and get used to dealing with normal people.

23 All right. So, this joint chronology is,
24 singularly, unjoint?

15:43 25 MR. ROBINSON: Yeah.

1 THE COURT: So, first -- Who prepared this?

2 MR. ROBINSON: Well, we did jointly prepare --

3 THE COURT: No. But that -- I want to know the
4 data that is undisputed. So, whoever's got this on their
15:44 5 machine -- that means your client will have to do it -- go
6 through and simply pull out all of them that say both, and
7 you can keep the others and just put them on a different
8 document. But many of these are not operating documents;
9 they're background documents.

15:44 10 You know, my standard here is a federal
11 statute. What the American Psychological Society says is of
12 no interest to me because I'd have to get into their
13 standards, if any, and what it all means. The standard is a
14 nice American statute in a book. That's the only one I can
15 apply. And we have a lot of them about Audrey and Lydia
16 Cruz Fox.

17 We have, you know, in 2011 the associate --

18 When did she file the first complaint?

19 MR. ROBINSON: The first formal grievance with the
15:45 20 University --

21 THE COURT: When did she first -- a material change
22 in her position. When did she -- Okay. She started in '07?
23 Is that right?

24 MR. BITTER: Yes, Your Honor.

15:45 25 MR. ROBINSON: Yes.

1 THE COURT: So, she starts working in April?

2 MR. BITTER: I believe it's August of 2007, Your
3 Honor.

4 THE COURT: And have there been EEOC complaints?

15:46 5 MR. BITTER: There was an EEOC charge. I believe
6 the first charge was in May of 2013.

7 THE COURT: And what happened to that?

8 MR. BITTER: That was eventually dismissed.

9 THE COURT: No lawsuit?

10 15:46 11 MR. ROBINSON: No. That's the subject of our
12 current lawsuit.

13 12 THE COURT: So, they kept it for a while and
14 then --

15 14 MR. ROBINSON: -- issued a right to sue.

16 15:46 17 THE COURT: -- watched it get moldy and then gave
18 it to you.

19 17 MR. BITTER: To clarify, there were -- and,
20 Mr. Robinson, correct me if I -- there were three amendments
21 to that charge as well that were filed over the course of
22 2013 and 2014.

23 21 THE COURT: And when was the last one? Or are they
24 all for the same thing but after what we would call a
25 "supplemental petition"?

26 24 MR. BITTER: The first two, as I understand it,
27 15:46 25 were to add supplemental charges. The third one was simply

1 to add the System as a respondent -- the third amended, I
2 should say.

3 THE COURT: So, like on May 15, 2012, she got a
4 letter -- and, I'm sorry, I don't know what all these clever
15:47 5 acronyms are -- the DPTAC, Department of Psychology Teaching
6 Assistant Coordinator.

7 MR. BITTER: It's a promotion.

8 MR. ROBINSON: Tenure track.

9 MR. BITTER: Promotion and tenure track, Your
15:47 10 Honor, the department promotion tenure....

11 THE COURT: All we need here is -- and we drop her
12 courtesy titles -- Miller got a letter from the Tenure
13 Committee about her performance. That's all I want, because
14 I am going to read the letter. I don't want the two places
15:48 15 you quoted. I want to read the whole letter.

16 And you all can agree on that, can't you?

17 MR. BITTER: I believe so, Your Honor. We had
18 filed -- as you know, we had filed an advisory last month
19 when it was our interpretation that perhaps the advisory was
15:48 20 due on December 11th. We were not sure. We filed an
21 advisory advising the Court that we had -- That was when
22 Miller was unrepresented at the time. We had tried to reach
23 an agreement with her.

24 THE COURT: Rosenberg withdrew and --

15:48 25 MR. BITTER: I understand. We had submitted a

1 chronology.

2 THE COURT: She can change lawyers all she wants
3 and wait until she finds one, except she can't stop the
4 case. It's her responsibility if she wants counsel to have
15:49 5 them.

6 Do you recall whether there were 30 days to
7 replace him?

8 MR. BITTER: I believe there was a date there.

9 THE COURT: That's what I normally would say if
15:49 10 it's early in the case. Now, later in the case I get less
11 sympathetic. But early in the case, if someone wants to
12 withdraw, I give them 30 days to do it. But she didn't do
13 it in 30 days, I take it.

14 MR. ROBINSON: No. She did it probably in 10 days.

15:49 15 MR. BITTER: Right. I only point out to say on
16 December 11th we did file an advisory with what our proposed
17 chronology would be, and I think it may be able to serve as
18 a starting point, because it's only about a page and a half
19 and is, you know, largely factual --

20 MR. ROBINSON: Of course, we believe ours is
21 factual.

22 THE COURT: Well, they may be factual, but they're
23 not operative facts. If she consulted with the Work Force
24 Commission, Civil Rights Commission, I don't care about
15:50 25 that. It's not a charge. It's did she file a complaint.

1 MR. ROBINSON: Only as a basis of retaliatory
2 behavior.

3 THE COURT: No. You don't get retaliation for
4 conferring in private with somebody. You have to actually
15:50 5 take an action. Telling your friends at coffee break, which
6 is the most common way, or after work -- It's got to be
7 something that they would have been aware of and had the
8 opportunity to do something about. Just -- All of her
9 secret challenges for equal rights are awfully nice, but it
15:50 10 has to be specific. Just to complain about something other
11 than they're a bunch of jerks, which could be true, it may
12 not necessarily be anti-whatever category she complains
13 about.

14 Is it only women or is it -- Is it sexual
15:51 15 discrimination or --

16 MR. ROBINSON: It's sex discrimination.

17 THE COURT: That's it?

18 MR. ROBINSON: And retaliation. Nothing else.

19 THE COURT: No race, rational origin, baldness,
15:51 20 any other --

21 MR. ROBINSON: Sex discrimination.

22 Your Honor, I'm sorry. I guess what my or my
23 client's, probably, confusion is trying to sort out how much
24 information you actually want in this document.

15:51 25 THE COURT: I don't like hard writing rules. I

1 want a good, brief, precise.... I don't want to say you
2 can't put more than 16 words in it and just aim at that.

3 There is a date something happened. She went
4 to Dallas to see somebody or she didn't. There are going to
15:51 5 be enough contests. So, I need a skeleton of the
6 transaction, and I need it in chronological order so I can
7 keep track of what came before what.

8 MR. ROBINSON: I think she was really just
9 concerned that what didn't go in here, you know, we may have
15:52 10 issues with later, not --

11 THE COURT: No. Well, you may, but I don't want to
12 know about these -- I want to know about operative events.
13 And she has a lot of workplace complaints. They didn't
14 listen to her about her student. They didn't do this. They
15:52 15 said that.

16 Unless they're anti-female, the fact that
17 they're incredibly poor-managed, short-sided and stupid --
18 that doesn't -- she has no claim about that. And, remember,
19 she's working for the State of Texas. And I dearly love the
15:52 20 State of Texas, but if you can sue them for bad government
21 everybody -- there would be, what, 27 million, whatever it
22 is, Texans in court wanting their taxes back. This is about
23 sexual discrimination, not about the administration,
24 corruption, any of those things.

15:53 25 MR. ROBINSON: Your Honor, our thought process was

1 that the things that were done with respect to her were
2 because of her sex.

3 THE COURT: No. That's her argument. But there
4 are things that are done. Period. I need to know what was
15:53 5 done.

6 So, if she got a letter saying 'You don't get
7 the promotion to associate professor', that's the key word.

8 MR. ROBINSON: Associate professor tenure.

9 THE COURT: Then, that's a datum. We're going to
15:53 10 have to discuss why it happened. So, I want to know what
11 happened.

12 I had a car wreck case this morning. Nobody
13 doubts that this finger and that finger met each other on
14 Interstate 10 one night out east of here. He says she
15:54 15 turned in to him. She says he turned in to her. But we
16 narrowed it down that they were in the two right-hand lanes
17 of Interstate 10 in Uvalde and they hit each other. That's
18 a place to start. Actually, from the complaint, you knew
19 none of that; all you knew there was a car wreck on I-10.
15:54 20 The first thing we did is figured out where they were and
21 what happened.

22 That one party was horrible and disgusting and
23 the other saintly is pretty much standard fare. That's why
24 I need to narrow down....

15:54 25 And some of these are just her recollections

1 of the conversation.

2 Did she record the May 18th, 2012, thing
3 where -- Jorge Varela?

4 MR. ROBINSON: I think what she did often was an
15:55 5 e-mail, document it.

6 THE COURT: Okay. But there is a, quote, "blemish
7 on Dr. Miller's track record here when you get up for tenure
8 in a few months." But I don't know what a junior member of
9 the faculty would have to say about tenure, although the
15:56 10 State has strange processes.

11 Who is on the tenure committee?

12 MR. BITTER: Well, on this departmental committee
13 it's just tenured faculty.

14 THE COURT: So, the junior member wouldn't be
15:56 15 tenured?

16 MR. BITTER: Yeah. I am just not sure what that
17 characterization means, if it's --

18 THE COURT: Well, "junior in service". So, you
19 could be a short-term Ph.D. from Berkley. I assume they
15:56 20 have a psychology department. They certainly have plenty of
21 crazy people in California.

22 MR. BITTER: In Dr. Miller's case the tenure
23 committee had ten members, I believe, all tenured faculty in
24 the psychology department.

15:56 25 THE COURT: All right. Here's something you could

1 do. Do you have a smart, young person on your staff?

2 MR. BITTER: We do.

3 THE COURT: They could do a flow chart of the
4 tenure process at Sam Houston State Teachers College --
15:57 5 that's what it used to be -- so we know -- and then just a
6 brief description of who is on the committee, all tenured
7 faculty. It has to go three other places or it's not a real
8 university. Tenure is a scarry thing. I didn't get mine
9 from a tenure committee.

15:57 10 And the May 31 entry is that somebody valued
11 this Jorge Varela -- V-a-r-e-l-a -- opinion over hers. That
12 has nothing to do with this. It has to do with the merits
13 of the opinion.

14 No. Disagreeing on the work, saying,
15:58 15 'Robinson, I want you to drill a second hole next to this
16 one on that flange,' and somebody tells him, 'No. No. What
17 you oughta do is do a lateral,' it can't be about my race or
18 yours. That has to do with where the hole is. I have a
19 minor in psychology. Things have a little less precision in
15:58 20 psychology.

21 So, there is a whole series about her getting
22 criticized listening to this other guy.

23 MR. ROBINSON: Your Honor, if I may suggest, if
24 some opinions are valued over other opinions on a consistent
15:59 25 basis, that would --

1 THE COURT: You can't do it, because you're not in
2 a position, he's not in a position and I'm not in a position
3 to evaluate -- and I don't know what the opinion is,
4 probably something psychological. Now, if one or both of
15:59 5 them defies common sense, it might still be good psychology,
6 but I disagree with some of my colleagues fairly
7 consistently regardless of race, creed, color, sex or
8 national origin.

9 MR. ROBINSON: But this situation was an opinion, I
15:59 10 believe, around something that is pursuant to policy.

11 THE COURT: Well, I don't know what that means.

12 MR. ROBINSON: Well --

13 THE COURT: Outcomes of research can't be
14 pursuant --

15:59 15 MR. ROBINSON: Well, there is a committee that
16 reviews a thesis, and she's on the committee. And pursuant
17 to the policy surrounding how you're supposed to work with
18 that thesis and critique that thesis, she's supposed to have
19 an opinion; and her opinions are supposed to be, actually,
16:00 20 at the level of potential veto on what the thesis would
21 ultimately be. And she was --

22 THE COURT: How many other people have a veto?

23 MR. ROBINSON: Everyone on the committee.

24 THE COURT: Okay. So, why does his veto trump her
16:00 25 consent or vice versa?

1 MR. ROBINSON: It was vice versa. She had an issue
2 with it.

3 THE COURT: And they didn't take it. That
4 doesn't -- She's a Ph.D. at a major state university and she
16:00 5 has a disagreement with her colleagues about the substance
6 of a thesis. She can't convert -- Otherwise, everybody she
7 wanted to get their thesis passed would have to get it;
8 otherwise, it's racial or sexual. That's not what the Act
9 is about. It's about major decisions, material decisions in
16:01 10 her benefits, pay, stuff like that.

11 And I may have to get into this, but I can't
12 do it -- I want it to be an outline of agreement. Like I
13 say, you can give me a list and you can give me a list of
14 what the great State of Texas -- They need to be the facts,
16:01 15 and that can be summarized in "Miller objected to people
16 listening to" --

17 MR. ROBINSON: I think it was --

18 THE COURT: -- whatever his name is, "and she filed
19 a grievance with the University." That's a nice fact.

16:02 20 Step one under the policy was August 3rd,
21 2012....

22 MR. ROBINSON: Your Honor, part of it was that,
23 because there's so many documents in such a short amount of
24 time, to review all of them -- I mean, I had 139,000 pages
16:02 25 of documents. He was not comfortable with some of the

1 things we were saying because he didn't know for sure if
2 that was accurate. So, there was just not enough time for
3 him to be comfortable that I was -- that what she was
4 alleging is true. So, we could not come up with some facts
16:02 5 that....

6 THE COURT: This long quote of hers in her
7 grievance that she thinks collegiality is a mask for male
8 domination and they all have stereotypical views of her --
9 Maybe her views are no good. She has to prove that her -- I
16:03 10 mean, we're not going to get into that.

11 What did the committee decide? I like the
12 words it's "being applied subjectively". In psychology
13 isn't that what it's all about? Somebody says something and
14 the psychologist says, 'Mmm-hmm. We know what they really
16:03 15 mean.' So, "subjectively" can't be....

16 What discipline does the provost come from?

17 MR. BITTER: Provost He-bert [phonetic]?

18 THE COURT: Uh-huh.

19 MR. BITTER: From mathematics/statistics.

16:04 20 THE COURT: I believe that's "A-bear" [phonetic],
21 would be my guess.

22 MR. BITTER: That may be correct. Statistics
23 specifically.

24 THE COURT: And "Jamie", is that a boy or a girl?

16:04 25 MR. BITTER: A male, Your Honor.

1 THE COURT: Well, he is obviously biased against
2 the other males if he said all this stuff. You can't do
3 that. I don't know Hebert, but that's -- he can't say there
4 is no way of stopping you from getting -- I mean, say it.
16:04 5 He had no authority to say that. The whole process....

6 So, apparently, what Hebert says is you've got
7 the qualifications for tenure, they voted on that and
8 approved it, and then a couple of people criticized you.

9 MR. ROBINSON: And denied tenure, Your Honor.

10 THE COURT: Well, I can't tell from this four-inch
11 quotation what happened. All we know is....

12 I want to know did Hebert grant tenure? Was
13 that his decision?

14 MR. ROBINSON: The committee would determine
15 tenure.

16 THE COURT: No. They have got to recommend tenure.
17 You can't turn over the institution to the monkeys. You
18 have got to have somebody outside of the -- otherwise, the
19 departments gets together and go crazy, not unlike the law
16:05 20 school did at Texas here recently.

21 [To Mr. Bitter] Don't comment on that.
22 That's your client, indirectly.

23 MR. ROBINSON: I think that individuals submitted
24 letters with respect to their opinions about tenure. She
16:06 25 was denied tenure.

1 THE COURT: And they're not entitled to their
2 opinion?

3 MR. ROBINSON: They are unless it's based on
4 retaliation.

16:06 5 THE COURT: Look. A negative comment is probably
6 not actionable no matter what because it's not an operative
7 event.

8 How many people were on -- Ten people on the
9 committee?

16:06 10 MR. BITTER: On the department's tenure committee.

11 THE COURT: Well, I don't know which one -- Let's
12 see what she's talking about. She was mobbed -- he says,
13 she says, that -- she says he says that she was mobbed at
14 the departmental meeting.

16:06 15 What did Hebert say? What was his role in
16 this? Well, that was just a grievance. That wasn't even a
17 part of the -- So, in a grievance he says a bunch of stuff
18 that has nothing to do with the actual process of granting
19 or denying tenure.

16:06 20 But it's clear she was denied tenure. Do you
21 all agree about that somewhere?

22 MR. BITTER: Yes, Your Honor. That was in February
23 of 2013. The August, 2012, meeting with Provost Hebert came
24 before the tenure application was submitted.

16:07 25 THE COURT: And it wasn't a tenure meeting.

1 MR. BITTER: The immediate --

2 THE COURT: Hebert's grievance was part of the
3 internal grievance process, not part of the tenure process.

4 MR. BITTER: Your Honor, I think we actually
16:07 5 dispute it's even a grievance meeting. It was a meeting.

6 THE COURT: Well, it's not tenure.

7 MR. ROBINSON: We see it as a tenure. She made
8 complaints prior to the tenure denial.

9 THE COURT: But he was not expressing anything that
16:07 10 was intended to affect the tenure decision.

11 MR. ROBINSON: He specifically stated that he
12 thought --

13 THE COURT: He can't do it in a grievance. His job
14 in -- What did she ask for when she filed the grievance?

16:07 15 MR. ROBINSON: To stop the hostile work environment
16 and the treatment that she felt was sexist.

17 THE COURT: And the what?

18 MR. ROBINSON: To stop the hostile work environment
19 and the treatment that she felt was sexist in the
16:08 20 department.

21 THE COURT: Okay. It doesn't have anything to do
22 with the tenure decision, does it?

23 MR. ROBINSON: Only if it was used later as a
24 basis --

16:08 25 THE COURT: No. He can't make the tenure decision.

1 She wanted him to intervene and make things different for
2 her. So, I don't -- Do I have here what he -- Did he ever
3 do anything -- that is, have a counseling session with the
4 tenure committee or...? That's a fact that she complained
16:08 5 under the policy to the provost and they had a meeting.
6 That's all that page of data -- for a fact.

7 All right. She complains a lot about these
8 people, like Conroy, a woman, asking her to defer a research
9 project and then it says "a member of the committee". Well,
16:09 10 every tenured professor is going be a member of the
11 committee, as I understand it.

12 MR. BITTER: Well, the committee only had ten
13 people -- the department committee -- so, not every tenured
14 faculty member would have a member of the committee.

16:09 15 THE COURT: You're talking about --

16 MR. BITTER: No. All of the members would have
17 been tenured faculty, but the department had more than ten
18 tenured faculty.

19 THE COURT: How many shrinks do y'all need out
16:09 20 there?

21 All right. I was confused.

22 So, Mary Alice is one-tenth of the tenure
23 committee.

24 And was Conroy a stooge for the men?

16:10 25 MR. ROBINSON: Yes.

1 THE COURT: How do we know that?

2 MR. ROBINSON: That's what my client believes.

3 THE COURT: That's not a fact.

4 MR. ROBINSON: I didn't say that.

16:10 5 THE COURT: She complains about subjectivity
6 before, and now she wants everything that happens there to
7 be judged on her subjective appraisal. That is zero
8 evidence. We have to have facts. She has to prove her
9 case, not feel her case. That's a difference in
16:10 10 terminology, which is a difference in substance.

11 And down here January 24th, '13, Wilson -- I
12 forget who that is now -- said she thought everything would
13 be okay. That's not an operative fact. "...and did say
14 anything could go wrong." Well, that's true, after we,
16:11 15 finally, have another agreement here.

16 And you disagree that February 4th they voted
17 to deny or recommend denial? There are two February 4th
18 entries. Everybody says they met, and apparently the
19 Plaintiff disagrees that they voted to deny. I thought we
16:11 20 agreed on that, recommending --

21 MR. ROBINSON: I think it may be just the date....
22 I don't think we have any knowledge as to when the vote
23 occurred.

24 THE COURT: Well, it occurred on the 4th or
16:11 25 afterwards, didn't it?

1 MR. ROBINSON: Yes.

2 THE COURT: Well, it's got to be in the papers
3 somewhere.

4 MR. ROBINSON: When they voted?

16:11 5 THE COURT: Sure.

6 MR. BITTER: I believe it was the 4th, Your Honor.

7 MR. ROBINSON: I don't have any problem with that.
8 I mean, I don't know why it's not noted --

9 THE COURT: It is now.

16:12 10 What is the CDA CPT?

11 MR. BITTER: So, that is the -- I mentioned the
12 department tenure committee. There is also a tenure
13 committee for the College of Humanities and Social Sciences.
14 That is made up of faculty from around the college. They
16:12 15 make recommendations directly to the dean of that college.
16 So, they're somewhat outside --

17 THE COURT: So, the department recommends it to the
18 college committee, and the college makes a recommendation to
19 the dean, and the dean recommends it to the provost?

16:13 20 MR. BITTER: This is where your idea of a flow
21 chart may prove most appropriate.

22 The departmental committee makes the
23 recommendation to the departmental chair. The departmental
24 chair makes a recommendation to the dean. The dean makes a
16:13 25 recommendation to the provost, and then the provost to the

1 president of the University. And then, separately, the
2 college committee -- they review the application. Their
3 recommendation just simply goes directly to the dean.

4 THE COURT: And, so, this is the dean of Humanities
16:13 5 and Social Sciences?

6 MR. BITTER: Yes, Your Honor. The College of
7 Humanities and Social Sciences, yes, Your Honor.

8 THE COURT: All right. So, that's my point,
9 Mr. Robinson; that this committee has to be reviewed by
16:14 10 this, this, commented on by this committee, go to the
11 provost and then to the president. Right?

12 MR. ROBINSON: Yes. That must be the case.

13 THE COURT: Plus or minus one level of bureaucracy.

14 All right. On February 5 the departmental
16:14 15 committee sends to the other committee a four-page letter.
16 Only one day after, where they did something proper to the
17 college, that's suspicious. What's wrong with that? They
18 held their meeting. They took a vote. The next day they
19 wrote a letter to the next level. Right?

16:15 20 Now, the Plaintiff doesn't like what he said,
21 but I'm not asking her to prove its content. The content is
22 the content. I am asking her to tell me what happened. And
23 the next day there was a letter. So, that seems to be
24 without any quarrel about that.

16:15 25 The next one, February 6, is another complaint

1 about they did it promptly. They don't have to take two
2 weeks. If she feels bad that they did it promptly -- I wish
3 the senate hadn't taken eight months getting ready to
4 send -- plus the Justice Department and all their background
16:15 5 checks and stuff, all of which were fine. It just took them
6 forever to get it done.

7 So, the department chair concurred and told
8 Castro, the dean.

9 February 10th. That other female student may
16:16 10 be a bitch, just like another male student may be a SOB.
11 That's not sexism, assuming it's based on her performance as
12 a colleague and as a teacher.

13 MR. ROBINSON: I would imagine that there are women
14 who would disagree.

16:16 15 THE COURT: There may be, but they're not a legal
16 standard for employment opportunity. And, besides, the
17 person who has a right to complain about that would be the
18 student and not a collateral professor. And I have no idea
19 about -- you know, there are a lot of claims about ClinDoc
16:17 20 workloads and course loads and things. Surely --

21 How many did you say there are? How many
22 professors of psychology with all the classes, ranks and --

23 MR. BITTER: It varied over time. I think,
24 generally, in the 15 range, again, up and down at times.

16:17 25 THE COURT: Couldn't we pick -- What year do you

1 want me to pick to get all their teaching loads and clinic
2 loads? Because not all of them were in clinical doctorate
3 work. Well, that's --

4 Did she already have her doctorate or she was
16:18 5 a master's -- She had her doctorate?

6 MR. BITTER: That's correct.

7 THE COURT: So, why is she in a clinical
8 doctorate -- It's a doctorate for the students?

9 MR. BITTER: That's right. So, some professors
16:18 10 were not in the clinical doctoral program. She was one of
11 them that was.

12 THE COURT: Do you know how many were in that?

13 MR. BITTER: I'm not sure. I think probably a
14 little more than half, is my understanding, but, again, it
16:18 15 varied at times. So --

16 THE COURT: Do a ClinDoc - because we want to talk
17 acronyms - in 2014? '13?

18 MR. ROBINSON: Well, she was denied tenure in 2013,
19 and I guess it's at the beginning. So, it would have to be
16:18 20 2012-2011.

21 THE COURT: Okay. So, I don't -- So, which one do
22 you want? '12 or '13? We have got to start somewhere.

23 MR. ROBINSON: I want '11 and '12.

24 THE COURT: No. You've got to pick one year to
16:19 25 start with.

1 MR. ROBINSON: Then, I'll say '12.

2 THE COURT: '12. We want the ClinDoc -- whatever
3 the precise data is for the program. I am not going to tell
4 you what to put on the chart, but there has to be some
5 statistical evidence, because she thinks she was doing more
6 than everybody else. But I think I do more here than all my
7 colleagues. There's no statistical evidence of that. I
8 still feel aggrieved.

13 MR. ROBINSON: I think so, yes.

14 THE COURT: So, can we just do the teaching loads
15 for people in the clinical doctoral program or -- If she got
16 some --

17 MR. ROBINSON: Well, I guess it would be whoever --
18 the individual who was setting the loads. I'm not sure if
19 that applied --

16:20 20 THE COURT: It's whatever the loads are. First,
21 we've got to see whether she had a disproportionate load
22 before we go psychoanalyzing whoever set the schedules.

23 MR. ROBINSON: Well, I'm just saying whatever group
24 that person managed, and I'm not sure whether that was
16:20 25 limited to the ClinDoc or --

1 THE COURT: She is complaining about too much in
2 the clinical doctorate program. If there is a Latin
3 American outreach program, those course loads will vary
4 based on the whims of that program, which won't be
5 comparable to ClinDoc, or -- There may be a, you know, jail
6 psychology program.

7 MR. BITTER: And to add a finer point, I mean,
8 there may be a relevance to adding something more than just
9 the supervision capacity, if you will.

16:21 10 THE COURT: Whatever are the ways that, if you had
11 a manager do this stuff, that they would look at -- If the
12 auditors came in and wanted to see why y'all were spending
13 so much money, then they would want to see something,
14 whatever it is that they're supposed to be doing with their
16:21 15 time. It's hard on the philosophy department because they
16 count putting their feet on their desk and thinking great
17 thoughts as productive time.

24 And then let's go ahead and -- just so the
16:22 25 data is available, the names and the sex of everybody in

1 these committees and the chain all the way up to the
2 president. Can we pick a year for that? Because I don't
3 know what the turnover is on the committees. '13?

4 MR. BITTER: I would think we would do -- I mean, I
16:22 5 think it would make the most sense to do the committees that
6 reviewed her application.

7 THE COURT: Yes. And the chair and the dean and
8 the provost and the president.

9 MR. BITTER: Yes, sir.

10 16:22 MR. ROBINSON: During that time frame.

11 THE COURT: Yeah. So, '13? Well, they denied it
12 in February '13 or started the recommendation.

13 MR. BITTER: That's correct.

14 THE COURT: Spring semester of '13.

15 16:23 MR. BITTER: Yes, Your Honor.

16 THE COURT: All right. And have somebody with the
17 University -- Do you have a contact there?

18 MR. BITTER: Yes, Your Honor.

19 THE COURT: Who?

20 16:23 MR. BITTER: Within the general counsel's office.

21 THE COURT: No. They don't know anything. I want
22 somebody who may be a former chair under psychology or
23 whatever who would understand both how the University works
24 and what these things are and can explain them to me.

25 16:24 People say they want a corporate

1 representative and they send down the general counsel or a
2 secretary. I want somebody who walked on the deck or welded
3 the pipe or something that knows what they're doing for a
4 living down there.

16:24 5 MR. ROBINSON: Your Honor, I would also note there
6 is an equal pay aspect to this.

7 THE COURT: Well, get the pay of everybody in the
8 ClinDoc.

9 Now, to be candid with you, Mr. Robinson,
10 16:24 there is nothing that she didn't complain about. Anything
11 anybody did for two and a half, three years, was all for
12 some ulterior motive.

13 And she recorded a bunch of statements? How
14 did she do that?

16:25 15 MR. ROBINSON: She had a recorder on her, I would
16 assume, her phone.

17 THE COURT: Ask her -- Do you have the originals?

18 MR. ROBINSON: They're just files. They're
19 computer files.

16:25 20 THE COURT: Did she tell the people she was
21 recording them?

22 MR. ROBINSON: (Indicates)

23 THE COURT: You have her personnel file?

24 MR. BITTER: Yes, Your Honor.

16:25 25 THE COURT: And do you need anything else from her

1 background?

2 MR. BITTER: I don't believe we will, Your Honor.

3 MR. ROBINSON: Your Honor, her personnel file -- we
4 don't have -- again, I don't believe were actually produced
16:25 5 in the process of the initial disclosure.

6 THE COURT: Do you want the personnel file?

7 MR. ROBINSON: We want the personnel file.

8 MR. BITTER: And we did produce the personnel file
9 as part of initial disclosures. I'm aware that there may
16:26 10 have been --

11 THE COURT: Both of you have got to read. She
12 can't do everything [referring to Ms. Banerjee].

13 MR. ROBINSON: But I believe they have these
14 performance evaluations and things like that --

16:26 15 THE COURT: I want data about her operations there
16 at the school. So, if there are time and attendance
17 problems, if there are pay problems, if there are --
18 whatever you all have.

19 And what happens is institutions keep three
16:26 20 different files. There will be a personnel file, a
21 management file and then maybe an insurance file or
22 something. The shop foreman's reports never make it to the
23 personnel file.

24 All right. And then has she produced a list
16:26 25 of every place she applied for employment and when she

1 applied for it?

2 MR. ROBINSON: I believe we have, yes.

3 MR. BITTER: And I have received that, yes. I
4 reviewed it.

16:27 5 THE COURT: And what is she doing now?

6 MR. ROBINSON: She is not employed now.

7 THE COURT: What is she doing? Then, there needs
8 to be how many interviews or applications has she sent this
9 year.

16:27 10 MR. ROBINSON: I believe we did provide the --

11 THE COURT: How many?

12 MR. ROBINSON: I have to look back in my files.

13 THE COURT: It's only been a month. She is
14 statutorily obliged to mitigate her damages. How is she
16:27 15 living if she's not working?

16 MR. ROBINSON: Well, she is married and her husband
17 has an income.

18 THE COURT: Well, if she is living off of him,
19 that's not unemployment. If she decided --

16:27 20 MR. ROBINSON: Well, she has not decided to live
21 off of him.

22 THE COURT: Well, that's what she's doing. And she
23 would be more motivated to find a job if she were relying on
24 her own income. So, she needs to do a responsible job to
16:28 25 mitigate and not claim her absence from work is due solely

1 to the University.

2 Did you know about this conversation or
3 whatever it was with Texas State University?

4 MR. BITTER: You mean the University of Houston or
16:28 5 with --

6 THE COURT: Is that who it was? Oh. That's right.
7 You're now part of the Texas State System? I didn't
8 understand Texas State.

9 MR. BITTER: Texas State was named and Sam Houston.
16:28 10 Sam Houston State University is part of Texas State.

11 THE COURT: Sam Houston is?

12 MR. BITTER: Yes, Your Honor.

13 THE COURT: But you're part of your own system.

14 MR. BITTER: Sam Houston State or --

16:28 15 THE COURT: No. The University of Houston.

16 MR. BITTER: Yeah. University of Houston Downtown
17 is part of the University of Houston System.

18 THE COURT: Aren't there other schools? I mean,
19 there is Victoria, Clear Lake....

16:29 20 MR. BITTER: Yes, one of several component
21 institutions.

22 THE COURT: Other than that -- Well, how many
23 components does Houston have? Find that out. Apparently,
24 some of them -- A&M has got them all over the place.

16:29 25 UT is trying to open a UT branch in Houston

1 without permission, following the typical bureaucratic they
2 had signed the contract to buy 300 acres and then seeking
3 permission. 'Well, we have already got this plan.'

4 Isn't Prairie View part of the A&M System now?

16:29 5 What's it part of?

6 MR. BITTER: I am not certain.

7 THE COURT: You're not certain. You have got no
8 idea. Just admit it.

9 Where did you go when you had your teeth?

16:30 10 MR. BITTER: I went to undergraduate at the
11 University of Texas.

12 THE COURT: And where did you go to law school?

13 MR. BITTER: Catholic University of America.

14 THE COURT: In Washington?

16:30 15 MR. BITTER: In Washington, DC, yes, sir.

16 THE COURT: Well, at least you weren't tainted with
17 seven years. About three years of law school pretty much
18 crippled me. I had to go to the University of Virginia to
19 get a master's to fix the defects in my education.

16:30 20 So, the claim is that somebody with
21 Sam Houston told the University of Houston to discriminate
22 against her. Is that right? Is that your --

23 MR. BITTER: I mean, I don't want to just claim. I
24 think that's how we interpret it --

16:30 25 THE COURT: I asked you. If you don't want to do

1 it, then tell me, 'I'm not answering your question.'

2 MR. BITTER: No. We interpret their claim is that
3 the University of Houston knew about her protected activity
4 and denied -- or I should say failed to offer her a position
16:31 5 based on that protected activity, and we denied both --

6 THE COURT: Part of her claim was that they knew
7 about it because Sam Houston calls Houston and told -- Did
8 Houston call Sam Houston?

9 MR. BITTER: Houston called Sam Houston as part of
16:31 10 the check of her current position, the supervisor of her
11 current position.

12 THE COURT: You know, that's a legitimate activity
13 by the University of Houston.

14 MR. ROBINSON: To check tenure?

16:31 15 THE COURT: To check references. It is privileged
16 from the claim about slander or libel because it's a topic
17 that both Sam Houston and the University of Houston have a
18 legitimate interest in, and there is nothing nefarious about
19 that. In fact, the problem today with the nature of
16:32 20 people's complaints is that lots of companies won't give the
21 information. They'll fire somebody for embezzlement and
22 they'll just say he worked here from year to year, which
23 it's -- I mean, somebody who's honest doesn't get that job
24 and then the company discovers he wasn't honest there
16:32 25 because he's not being honest here.

1 All right. Anything else the University of
2 Houston did besides deny her tenure on sexist grounds?

3 MR. ROBINSON: Denied her employment based on the
4 protected activity she engaged in while she was --

16:33 5 THE COURT: Mmm-hmm.

6 MR. ROBINSON: She informed them in the application
7 process that she had engaged in that protected activity at
8 Sam Houston State.

9 THE COURT: Activity didn't give her a job. There
10 are people who show up for their first day of work and in
11 the first week or two go to human resources and tell them,
12 you know, 'I am really concerned about the opportunities of
13 all the white men here,' or something and then use that
14 every time they get criticized. 'You're just getting back
16:33 15 at me for doing that.'

16 She's free to make her complaints, but she has
17 to prove -- She is committing the fallacy of post hoc.

18 You speak Latin, don't you?

19 MS. BANERJEE: I'm sorry?

16:33 20 THE COURT: You speak Latin, don't you?

21 MS. BANERJEE: A little.

22 THE COURT: That means "after this because of
23 this".

24 And that she told the University of Houston
16:34 25 she had complained about discrimination somewhere else may

1 not even be a necessary condition, because it has to be
2 made, I think, to the decisionmaker about, you know, the
3 complaint. I don't know about that one. But it's certainly
4 not a sufficient condition because, had she not complained,
16:34 5 she wouldn't have any claim against Sam Houston State.

6 MR. ROBINSON: Well, she --

7 THE COURT: She would have no complaint in law.
8 But she did complain; so, she can sue. She doesn't win
9 based on that simple sequence of events. She needs to still
16:34 10 put the proof that it was because of it. And marshaling a
11 bunch of office gossip, like this stipulation or
12 non-stipulation, is not the stuff of proving a denial of
13 equal opportunity. You have to have something -- an
14 operative substantial.

16:35 15 As near as I can tell, her only complaint here
16 is likely she was paid less but that she didn't get tenure.

17 I have never thought about it, but I have had
18 more tenure decisions than you can imagine working here.
19 You wouldn't think professors were litigious, but apparently
16:35 20 they are. And some of them are based just on decisions
21 arbitrary where somebody believes there was no statutory
22 ground; they were just unfairly treated.

23 Has she gotten interviews anywhere else?

24 MR. ROBINSON: I do not believe she as.

16:36 25 THE COURT: Have you looked at other place she's

1 applied?

2 MR. BITTER: We have not, Your Honor. We do at
3 least know, obviously, with respect to the University of
4 Houston.

16:36 5 THE COURT: Well, I'm not talking about that. How
6 did you give it to them? On a sheet of paper or in a
7 narrative? In a list?

8 MR. ROBINSON: On paper. The list of places she's
9 applied, yes, is on paper.

10 THE COURT: Do you have it?

11 MR. ROBINSON: I do not have the paper here.

12 THE COURT: Well, do you have it on your computer?

13 MR. BITTER: I have the paper if you need it, Your
14 Honor.

15 THE COURT: What was her last day --

16 MR. BITTER: That's the cover page of the
17 transmittal and then I believe the specific request is later
18 on. Yeah, we may have double-sided.... I believe it's
19 Section F is the exact request.

16:37 20 THE COURT: Your calculation of lost income -- I
21 don't know who did this for you, but they're not much of an
22 economist. They also didn't take out the fact she's not
23 able to work on here.

24 MR. ROBINSON: I'm sorry?

16:37 25 THE COURT: She's not having to work. That's a

1 savings. She doesn't have to go and park and put up with a
2 bunch of graduate students. That's why it's called "work".

3 So, she doesn't get paid for not having
4 worked, expects some real lost income, transitional income.
16:38 5 36 years? She's going to retire and she's going to get a
6 half a million dollars a year 36 years from now?

7 How old is she?

8 MR. BITTER: I'm not sure.

9 MR. ROBINSON: I'm not sure.

10 16:38 THE COURT: Does she have gray hair?

11 MR. BITTER: No, Your Honor.

12 MR. ROBINSON: She --

13 THE COURT: She's young.

14 MR. ROBINSON: Well, to me.

15 16:38 THE COURT: You're young to me.

16 MS. BANERJEE: Your Honor, she was born in 1976.

17 THE COURT: When?

18 MS. BANERJEE: 1976.

19 16:38 THE COURT: 39? That's easy, because my younger
20 daughter was born in 1948. So, I know how old she and I
21 just subtract any single-digit number from Lindsey's age.

22 Now, she's not suggesting that the University
23 of Houston or Sam Houston has any influence over the City
24 University of New York, John Jay College, University of
16:39 25 Dallas, Dushane in Pittsburgh, University of Texas,

1 St. Thomas, Texas Southern. Okay. Does she think that was
2 based on her race?

3 MR. ROBINSON: She's not suggesting that. The
4 question of fact is who she applied to. She's just stating
16:40 5 where she applied.

6 THE COURT: I may have missed a couple of them.

7 Oh. Rice.

8 Does she have the applications for all these
9 places?

10 16:40 MR. ROBINSON: I don't know if they require
11 applications.

12 THE COURT: It was just online?

13 MR. ROBINSON: I don't know the answer to that.

14 THE COURT: Well, find that out.

15 16:40 I had a guy who worked for a place called the
16 State of Texas once and he thought they treated him poorly.
17 And, so, after they let him go, he would apply to every open
18 position on the State of Texas website. So, he said, "I
19 have applied to 187,000 jobs." Now I know why they let him
20 go.

21 21 So, get what the process was for each. And I
22 don't know the correlation between the solicitations and her
23 qualifications.

24 24 MR. ROBINSON: I don't understand the question.

25 16:41 I'm sorry.

1 THE COURT: Well, we have some City of Houston
2 workers who got a doctorate in civil engineering from a post
3 office box in Louisiana and they applied for being public
4 works directors and all kinds of high-level, sophisticated
16:42 5 technical jobs claiming they had a doctorate and the other
6 guys don't. I guess it's a hobby.

7 MR. ROBINSON: I think she's overqualified for most
8 of these positions.

9 THE COURT: And do you know who these three people
16:42 10 were that were hired at the University of Houston and she
11 wasn't?

12 MR. ROBINSON: Yes.

13 THE COURT: Do you know?

14 MR. BITTER: The names? Yes, Your Honor.

16:42 15 THE COURT: Do you know their qualifications?

16 MR. BITTER: Yes, Your Honor.

17 THE COURT: And have Miss Bloom do a chart of her
18 qualifications and these three people's qualifications. If
19 you have a hundred Nobel laureates in physics one of them is
16:43 20 at least going to be qualified.

21 MR. BITTER: With our disclosure we just put up the
22 resumes of those three individuals and we can certainly do a
23 chart as well.

24 THE COURT: I want you to distinguish a little bit.
16:43 25 If you confuse me -- which is highly likely -- then I will

1 read the resumes.

2 [Hands documents back to counsel] I'm afraid
3 I may have mixed up....

4 MR. BITTER: That's all right. They're
16:43 5 double-sided.

6 THE COURT: They may not be in order, but all the
7 holes line up.

8 MR. BITTER: Thank you, Your Honor.

9 THE COURT: All right. Anything else you can think
16:43 10 of you need?

11 MR. ROBINSON: Well, Your Honor, we actually
12 provided a list to opposing counsel in both cases of all the
13 things we talked about.

14 THE COURT: Well, that's fairly good. I have got
16:44 15 people waiting for me. We're not going to do anything about
16 these people until we find out what the qualifications of
17 the successful people are.

18 MR. ROBINSON: The first section of this document
19 on each of them is what we're talking about in terms of
16:44 20 documentation.

21 THE COURT: Are the personnel files and processes
22 for downtown coordinated with the main campus or is that a
23 separate decision-maker's reading?

24 MR. BITTER: In terms of the personnel decisions?

16:45 25 THE COURT: Uh-huh.

1 MR. BITTER: The only thing that has to go to
2 System for hiring is very high-level positions --
3 chancellor-level, that type of thing.

4 THE COURT: We don't care about the fall of 2007.
16:45 5 That's way outside of limitations.

6 MR. ROBINSON: I would like to agree with the Court
7 on that. In terms of her evaluations --

8 THE COURT: I have three hundred --

9 MR. ROBINSON: Some reasonable time frame.

10 THE COURT: -- 380 statutory limit from her first
11 complaint.

12 MR. ROBINSON: Right. Well, I guess, if they were
13 going to say that her performance was poor at some point....

14 THE COURT: If they identify something outside of
15 the limitations period that colored their decision eight
16 years later, then they will have to document it. You know,
17 lots of people have sterling reviews. Then they get fired,
18 but it's because they took to drinking or something. People
19 change or their work changed. You can be really good at
16:46 20 something.

21 I don't think we need to psycho-analyze
22 Hebert's notes. She says everything he said was on her
23 side. Why would she need to see the notes?

24 MR. ROBINSON: Full disclosure.

16:47 25 THE COURT: There's got to be a purpose to it.

1 They got --

2 MR. ROBINSON: I'm not really sure if it's of that
3 process.

4 THE COURT: He was the guy she complained to. She
16:47 5 quoted him. Where did she get her quotes?

6 MR. ROBINSON: From conversations.

7 THE COURT: Well.... Is she not saying what she
8 said he said is true?

9 MR. ROBINSON: Well, if he sent communications
16:47 10 after the fact --

11 THE COURT: Well, this is way too argumentative.

12 MR. BITTER: We also believe that the scope of the
13 proposed depositions are -- we believe they're extensive.

14 THE COURT: Yes. I already said that, didn't I?

16:47 15 All right. No depositions until we get
16 straight --

17 MR. ROBINSON: Your Honor, some of these things
18 were part of your order for disclosure and --

19 THE COURT: But the performance evaluations of her
16:48 20 should have been produced.

21 MR. BITTER: Yes, Your Honor.

22 THE COURT: That's No. 5 on here or No. 4. I can't
23 tell. There's so many acronyms, but that's not your fault.

24 25 This No. 2, where there is about 12 people and
then men were hired, were they all hired in 2011, '12, '13?

1 MR. BITTER: I do not believe so.

2 THE COURT: So, I have got no idea why all these
3 people are relevant.

4 MR. ROBINSON: These are the comparators in
16:48 5 Sam Houston in terms of treatment --

6 THE COURT: No. Wait. You're asking for males.
7 We want everybody. She can't exclude other women who did
8 better than she did. I already told you --

9 MR. ROBINSON: There's only, I think, her for the
16:49 10 most part. She's the only female.

11 THE COURT: Well, I don't know that. And that
12 alone shows they're open to women or they wouldn't have her.

13 All right. Can I keep this?

14 MR. ROBINSON: Yes, Your Honor.

15 THE COURT: I'll probably lose it; so, don't come
16 without an extra copy next time.

17 All right. Get the tenure track pool and
18 their objective qualifications. And I'm not saying the
19 University can't give somebody tenure six weeks after they
16:49 20 got their Ph.D., but they ought to be able to give a
21 rational reason for doing it. I don't want the reason now.
22 I just want the hard data, their ages when they got their
23 three degrees or seven degrees or whatever it is. I think
24 somebody like me that has an extra degree -- I ought to be
16:50 25 able to rent it to somebody that doesn't have a degree.

1 All right. How long will it take you to get
2 this done?

3 MR. BITTER: Umm --

4 THE COURT: Ten days. That's good.

16:50 5 You, too.

6 And then we'll get back together in about -- I
7 don't know, but you will get an order. But don't dilly
8 daddle. We have this case -- Can we consolidate them or do
9 we need to keep them separate?

16:50 10 MR. ROBINSON: Your Honor, I think they should be
11 separate.

12 THE COURT: It's all the same facts. One episode
13 where Sam Houston State polluted the waters with the
14 University of Houston.

16:51 15 MR. ROBINSON: Well, honestly, I think they would
16 probably object more than we could.

17 MR. BITTER: Yeah. I think there really is sort of
18 a -- as I see it, sort of a stop in the set of facts once
19 she applied to University of Houston. I see them as
20 somewhat different.

21 THE COURT: All right. I will get credit for
22 closings two cases when I crush you.

23 MR. ROBINSON: Your Honor --

24 THE COURT: How will that look on your record?

16:51 25 MR. ROBINSON: Your Honor, one more thing.

1 THE COURT: Yes, sir.

2 MR. ROBINSON: I already sent this in, but I just
3 wanted to be clear, that I am going out of the country from
4 February 15th until March 4th.

16:51 5 THE COURT: Is she going with you?

6 MR. ROBINSON: No. My wife. I am afraid not.

7 THE COURT: Well, you're doing something wrong,
8 then. Why can't she do it?

9 Are you a lawyer?

16:52 10 MS. BANERJEE: Yes.

11 MR. ROBINSON: She is.

12 THE COURT: She has advantages. She's young.
13 She's freshly educated, hasn't picked up any bad habits yet.
14 She can do it. If she can't, she can scream for help.

16:52 15 MR. ROBINSON: I am just referring to appearing.

16 THE COURT: She can appear. But if you have a
17 vacation letter someplace, you've got to tell me. You have
18 got to move for a continuance in my case.

19 MR. ROBINSON: I actually filed a notice of
16:52 20 vacation.

21 THE COURT: I know, but -- And I might bore you and
22 we're going to set whatever we need to do while you're off
23 galavanting around the world and she and I are standing here
24 in a bleak, cold concrete city. But we'll think kind
16:53 25 thoughts of you.

1 Where are you going?

2 MR. ROBINSON: I am going to Thailand, Vietnam and
3 Cambodia.

4 THE COURT: She can handle it. If not, I will cut
5 her some slack. I am going to cut you some slack.

6 So, I will set something somewhere around a
7 month or however -- but y'all get the stuff exchanged in ten
8 days.

9 MR. BITTER: Would you like the information filed
0 with the Court or just --

11 THE COURT: Please. Bring anything that -- like
12 the charts. I like charts --

13 MR. BITTER: Yes, Your Honor.

14 THE COURT: -- charts and graphs. If I can think
15 of a reason for you to give me a map -- I like maps, too.

17 || COURT REPORTER'S CERTIFICATE

18 I, BRUCE SLAVIN, certify that the foregoing is a
19 correct transcript from the record of proceedings in the
20 above entitled matter, to the best of my ability.

s/Bruce Slavin
BRUCE SLAVIN, RPR, CMR